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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/730,129

12/09/2003

Chung-Hsien Lee

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07/24/2006

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EXAMINER

WARREN, DAVID S

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,129

Applicant(s)

LEE, CHUNG-HSIEN

Examiner

David S. Warren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

As stated in the previous Office Action (January 24, 2006):

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

1. Claim 11 is rejected under 35 U.S.C. 102(a) as being anticipated by Furukawa (2003/0101862). Regarding claim 11, Furukawa discloses the use of a musical file comprising a plurality of time fields and event fields arranged in a series (fig. 2B), wherein the time field is followed by one or a plurality of event fields corresponding to the time field, and the plurality of event fields represent a plurality of music playback events occurred in the same time (fig. 2B); note that two event codes occur between two delta times, the two events occur at the same time (i.e., “two events concurrently take place” see paragraph [0008]).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa (6,949,705). Regarding claim 1, Furukawa discloses the use of generating a musical file comprising recording a relative time (fig. 4B; the Δt refers to delta time and is a non-absolute or relative time), recording an event corresponding to the time (fig. 4B; see box labeled EVENT), determining whether events are recorded completely (fig. 5; elements Sa4 and Sa5), and if not, repeating a storing step. Furukawa does not disclose the use of specifically repeating the step of recording a relative time (step A) nor does Furukawa disclose determining whether each event and/or all events have been recorded. However, Furukawa does disclose that while storing MIDI codes (see Sa4 in fig. 5) that if storing is not completed (Sa5 in fig. 5) that the steps will be repeated until storing (i.e., recording) is complete. Furukawa is silent as to whether the step Sa5 is for each datum or for a complete file, however, it is clear that Furukawa shows a determination as to completeness of storing MIDI data. It would have been obvious to one of ordinary skill in the art to modify step Sa5 of Furukawa to comprise making a determination for both each datum and all data. The motivation for making this modification would be to provide added data integrity. The Examiner also notes that if step Sa5 is determining if all data recording has been completed, then it would be inherent if each datum was recorded. Regarding claim 6, Furukawa discloses reading a musical file (Sa3; fig. 5), determining a time field length (delta time; Δt), decoding time and event fields (fig. 4B; see §112 supra) is synonymous with creating the MIDI file (in

Sa4), determining whether time events are decoded (Sa5), and playing a musical file (presumably, all MIDI files are eventually played).

4. Claims 2 – 5 and 7 – 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa (6,949,705) in view of Hikawa et al. (2005/0066796). The teachings of Furukawa have been discussed supra with respect to independent claims 1 and 6. Furukawa discloses the use of recording a MIDI file format (i.e., a standard MIDI file). Furukawa does not disclose the use of recording in an SMAF file format. Hikawa discloses that if delta (i.e., relative) times and events are recorded in MIDI file format (or SMF, see figs 7A and 7C) that it is obvious to also do so in SMAF format (see paragraph [0298]). It would have been obvious to one of ordinary skill in the art to combine the teachings of Furukawa and Hikawa to obtain a MIDI recording and playback apparatus for use with both SMF and SMAF format. The motivation for making this combination would be to provide file formats for both MIDI reproduction and mobile (cell phones and PDA's) devices.

Response to Arguments

5. Applicant's arguments filed April 24, 2006 have been fully considered but they are not persuasive. The Applicant argues (page 6) that "step (C) of claim 1 is used to determine whether all of the events corresponding to ***a specific time field*** are recorded completely." [Applicant's emphasis] Furukawa clearly shows one or more events

corresponding to a relative time (fig. 4B). Furthermore, Furukawa discloses all events are recorded. As stated in the previous Office Action, the Examiner maintains that if all events are determined to be completely recorded (see Furukawa's fig. 5, step Sa5), then the events corresponding to a specific field are recorded completely. Regarding claim 11, the Applicant argues (page 7) that Furukawa does not disclose "a time field...followed by one or more event fields." As stated in the previous Office Action, Furukawa clearly shows a time field (left most D4 of fig. 2B) followed by one or more event fields (middle two D3s). Element D3 of Furukawa clearly show "one or more playback events occurred in the same time" (paragraph [0008]). The Applicant also argues (top of page 8) that "there is no teaching or suggestion that multiple audio data D1 can be associated with a single time code D2." The Examiner concurs, however, the rejection was based on fig. 2B and the use of event codes, not audio data. The Applicant also argues that Furukawa "does not teach or suggest a flexible arrangement, referring only o two concurrent events." The Applicants claims are silent to any limitations drawn to flexibility. The use of "one or more" does not, in any way, require flexibility. "One or more," as interpreted by the Examiner explicitly means one or two or three, etc. Furukawa shows one and two, and therefore clearly meets Applicant's limitations. Furthermore, claim 1 recites "recording an event" [emphasis added]. The Applicant argues that Furukawa shows event codes of the "same type." The argument is moot since event types are not claimed in any claim. However, the Examiner notes that, as Applicant stated, the Furukawa discloses note-on, note-off, tone number to be generated or decayed, and velocity. These are different types of event data. Finally, on

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page 9, Applicant argues that "one or more" defines a variable number. The Examiner does not concur. A single event code will meet the limitation of "one or more."

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David S. Warren whose telephone number is 571-272-2076. The examiner can normally be reached on M-F, 9:30 A.M. to 6:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-2837. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dsw


LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER